

Part 1 General Provisions

58-60-101 Title.

This chapter is known as the "Mental Health Professional Practice Act."

Enacted by Chapter 32, 1994 General Session

58-60-102 Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.
- (2) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:
 - (a)
 - (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or
 - (ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and
 - (b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:
 - (i) present to further the interest of the client or patient in the consultation, examination, or interview;
 - (ii) reasonably necessary for the transmission of the communications; or
 - (iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.
- (3) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.
- (4) "Individual" means a natural person.
- (5) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:
 - (a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;
 - (b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;
 - (c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;
 - (d) a psychologist qualified to engage in the practice of mental health therapy;
 - (e) a certified psychology resident qualifying to engage in the practice of mental health therapy;
 - (f) a clinical social worker;
 - (g) a certified social worker;
 - (h) a marriage and family therapist;

- (i) an associate marriage and family therapist;
 - (j) a clinical mental health counselor; or
 - (k) an associate clinical mental health counselor.
- (6) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).
- (7) "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:
- (a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);
 - (b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (5);
 - (c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and
 - (d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).
- (8) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.
- (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.
- (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Amended by Chapter 16, 2013 General Session

Amended by Chapter 123, 2013 General Session

58-60-103 Licensure required.

- (1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice Act; Chapter 68, Utah Osteopathic Medical Practice Act; Chapter 31b, Nurse Practice Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order to:
- (a) engage in, or represent that the individual will engage in, the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or clinical mental health counseling; or
 - (b) practice as, or represent that the individual is, a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, clinical mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse specialist, certified psychology resident, associate marriage and family therapist, or associate clinical mental health counselor.
- (2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:
- (a) engage in, or represent that the individual is engaged in, practice as a social service worker; or
 - (b) represent that the individual is, or use the title of, a social service worker.
- (3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

- (a) engage in, or represent that the individual is engaged in, practice as a substance use disorder counselor; or
 - (b) represent that the individual is, or use the title of, a substance use disorder counselor.
- (4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be certified under this chapter, or otherwise exempted from licensure under this chapter, in order to engage in an internship or residency program of supervised clinical training necessary to meet the requirements for licensure as:
- (a) a marriage and family therapist under Part 3, Marriage and Family Therapist Licensing Act; or
 - (b) a clinical mental health counselor under Part 4, Clinical Mental Health Counselor Licensing Act.

Amended by Chapter 258, 2015 General Session

58-60-104 Term of license -- Expiration -- Renewal.

- (1)
- (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.
 - (b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal the licensee shall show satisfactory evidence of renewal requirements as required under this chapter.
- (3) Each license expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

Enacted by Chapter 32, 1994 General Session

58-60-105 Continuing education.

- (1) By rule made under Section 58-1-203, the division may establish a continuing education requirement as a condition for renewal of any license classification under this chapter upon finding continuing education for that profession is necessary to reasonably protect the public health, safety, or welfare.
- (2) If a renewal cycle is extended or shortened under Section 58-60-104, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.
- (3) The division shall, in addition to a continuing education requirement the division establishes under Subsection (1), require an individual licensed under this chapter, as a condition of renewing the individual's license, to complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Amended by Chapter 77, 2015 General Session

58-60-106 Status of licenses held on the effective date of this chapter.

An individual holding a valid Utah license as a clinical social worker, certified social worker, social service worker, or marriage and family therapist under any licensing or practice acts in this title in effect immediately prior to July 1, 1994, is on and after July 1, 1994, considered to hold a current license under this chapter in the comparable classification as a clinical social worker, certified social worker, social service worker, or marriage and family therapist.

Enacted by Chapter 32, 1994 General Session

58-60-107 Exemptions from licensure.

- (1) Except as modified in Section 58-60-103, the exemptions from licensure in Section 58-1-307 apply to this chapter.
- (2) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:
 - (a) the following when practicing within the scope of the license held:
 - (i) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;
 - (ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act; and
 - (iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;
 - (b) a recognized member of the clergy while functioning in a ministerial capacity as long as the member of the clergy does not represent that the member of the clergy is, or use the title of, a license classification in Subsection 58-60-102(5);
 - (c) an individual who is offering expert testimony in a proceeding before a court, administrative hearing, deposition upon the order of a court or other body having power to order the deposition, or a proceeding before a master, referee, or alternative dispute resolution provider;
 - (d) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:
 - (i)
 - (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;
 - (B) consults with a client to determine current motivation and behavior patterns;
 - (C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;
 - (D) tests clients to determine degrees of suggestibility;
 - (E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and
 - (F) trains clients in self-hypnosis conditioning;
 - (ii) may not:
 - (A) engage in the practice of mental health therapy;
 - (B) use the title of a license classification in Subsection 58-60-102(5); or
 - (C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;
 - (e) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;
 - (f) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or clinical mental health counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

- (g) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;
- (h) an individual providing general education in the subjects of alcohol, drug use, or substance use disorders, including prevention;
- (i) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and
- (j) an individual who is licensed, in good standing, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely or short term transitional substance use disorder counseling remotely to a client in Utah only if:
 - (i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy or substance use disorder counseling;
 - (ii) the client relocates to Utah;
 - (iii) the client is a client of the individual immediately before the client relocates to Utah;
 - (iv) the individual provides the short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client only during the 45 day period beginning on the day on which the client relocates to Utah;
 - (v) within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client; and
 - (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

Amended by Chapter 16, 2013 General Session

58-60-108 Grounds for action regarding license -- Disciplinary proceedings.

The division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.

Enacted by Chapter 32, 1994 General Session

58-60-109 Unlawful conduct.

As used in this chapter, "unlawful conduct" includes:

- (1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:
 - (a) mental health therapy;
 - (b) clinical social work;
 - (c) certified social work;
 - (d) marriage and family therapy;
 - (e) clinical mental health counselor;
 - (f) practice as a social service worker; or
 - (g) substance use disorder counselor;
- (2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)(f); or

- (3) representing oneself as, or using the title of, the following:
 - (a) unless currently licensed in a license classification under this title:
 - (i) psychiatrist;
 - (ii) psychologist;
 - (iii) registered psychiatric mental health nurse specialist;
 - (iv) mental health therapist;
 - (v) clinical social worker;
 - (vi) certified social worker;
 - (vii) marriage and family therapist;
 - (viii) clinical mental health counselor;
 - (ix) social service worker;
 - (x) substance use disorder counselor;
 - (xi) associate clinical mental health counselor; or
 - (xii) associate marriage and family therapist; or
 - (b) unless currently in possession of the credentials described in Subsection (4), social worker.
- (4) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the Social Work Licensing Board, verifying satisfactory completion of an education and an earned degree as follows:
 - (a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or
 - (b) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

Amended by Chapter 323, 2015 General Session

58-60-110 Unprofessional conduct.

- (1) As used in this chapter, "unprofessional conduct" includes:
 - (a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;
 - (b) failure to confine practice conduct to those acts or practices:
 - (i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and
 - (ii) which are within applicable scope of practice laws of this chapter; and
 - (c) disclosing or refusing to disclose any confidential communication under Section 58-60-114 or 58-60-509.
- (2) "Unprofessional conduct" under this chapter may be further defined by division rule.

Amended by Chapter 281, 2001 General Session

58-60-111 Penalty for unlawful conduct.

An individual who commits any act of unlawful conduct as defined in:

- (1) Subsection 58-60-109(1) or (2) is guilty of a third degree felony; or
- (2) Subsection 58-60-109(3) is guilty of a class A misdemeanor.

Enacted by Chapter 32, 1994 General Session

58-60-112 Reporting of unprofessional or unlawful conduct -- Immunity from liability.

- (1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:
 - (a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;
 - (b) an individual licensed under this chapter; and
 - (c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.
- (2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

Enacted by Chapter 32, 1994 General Session

58-60-113 Evidentiary privilege.

Evidentiary privilege for mental health therapists regarding admissibility of any confidential communication in administrative, civil, or criminal proceedings is in accordance with Rule 506 of the Utah Rules of Evidence.

Enacted by Chapter 32, 1994 General Session

58-60-114 Confidentiality -- Exemptions.

- (1) A mental health therapist under this chapter may not disclose any confidential communication with a client or patient without the express consent of:
 - (a) the client or patient;
 - (b) the parent or legal guardian of a minor client or patient; or
 - (c) the authorized agent of a client or patient.
- (2) A mental health therapist under this chapter is not subject to Subsection (1) if:
 - (a) the mental health therapist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:
 - (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;
 - (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;
 - (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or
 - (iv) reporting of a communicable disease as required under Section 26-6-6;
 - (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
 - (c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Amended by Chapter 366, 2011 General Session

58-60-115 License by endorsement.

The division shall issue a license by endorsement under this chapter to a person who:

- (1) submits an application on a form provided by the division;
- (2) pays a fee determined by the department under Section 63J-1-504;
- (3) provides documentation of current licensure in good standing in a state, district, or territory of the United States to practice in the profession for which licensure is being sought;
- (4) except as provided in Subsection (5), provides documentation that the person has engaged in the lawful practice of the profession for which licensure is sought for at least 4,000 hours, of which 1,000 hours are in mental health therapy;
- (5) if applying for a license to practice as a licensed substance use disorder counselor, provides documentation that the person:
 - (a) has engaged in the lawful practice of the profession for at least 4,000 hours; and
 - (b) has passed an examination approved by the division, by rule, to establish proficiency in the profession;
- (6) has passed the profession specific jurisprudence examination if required of a new applicant; and
- (7) is of good moral character and professional standing, and has no disciplinary action pending or in effect against the applicant's license in any jurisdiction.

Amended by Chapter 179, 2012 General Session

58-60-115.2 Pre-existing license by endorsement.

A person who, on May 11, 2010, has a valid license by endorsement under Section 58-60-115 that was granted before May 11, 2010, is considered to have met the requirements of Subsection 58-60-115(4) if the person provides documentation that the person has engaged in:

- (1) the lawful practice of the person's profession, including mental health therapy, for not less than 4,000 hours during the three years immediately preceding the date of application for licensure in Utah; or
- (2) the lawful practice of the profession for which licensure is sought for not less than 4,000 hours, of which 1,000 hours are in mental health therapy.

Enacted by Chapter 214, 2010 General Session

58-60-117 Externship licenses.

- (1) The division shall issue a temporary license under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a person who:
 - (a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;
 - (b) pays a fee determined by the department under Section 63J-1-504;
 - (c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;
 - (d) has a deficiency, as defined by division rule, in course work;

- (e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and
 - (f) is of good moral character and has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.
- (2) A temporary license issued under this section shall expire upon the earlier of:
- (a) issuance of the license applied for; or
 - (b) three years from the date the temporary license was issued.
- (3) The temporary license issued under this section is an externship license.

Amended by Chapter 197, 2015 General Session